## GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2013

H 3

## HOUSE BILL 203 Committee Substitute Favorable 4/11/13 Third Edition Engrossed 4/18/13

Short Tit	tle: Revisions/Homeowner/Homebuyer Protection Act. (	Public)
Sponsors	3:	
Referred	to:	
	March 5, 2013	
The General The Ge	A BILL TO BE ENTITLED  C AMENDING THE HOMEOWNER AND HOMEBUYER PROTECTION ACT  eral Assembly of North Carolina enacts:  SECTION 1. G.S. 47G-1 reads as rewritten:  1. Definitions.  following definitions apply in this Chapter:	Γ.
	(4) Option contract or contract. – An option contract for the purch property that includes or is combined with, or is executed in conju with, a covered lease agreement. The term does not include a contract obligates the buyer to purchase the property even though the obligation be subject to one or more contingencies or unilateral rights to termin contract.	inction which on may
	SECTION 2. G.S. 47G-7 reads as rewritten:	
A vid G.S. 75 I transactio for a viol not a lim Chapter residence	7. Remedies.  Olation of any provision of this Chapter constitutes an unfair trade practice 1.1. An option purchaser may bring an action for the recovery of damages, to on executed in violation of this Chapter, as well as for declaratory or equitable lation of this Chapter. The rights and remedies provided herein are cumulative initation of, any other rights and remedies provided by law or equity. Nothing shall be construed to subject an individual homeowner selling his or her per directly to an option purchaser to liability under G.S. 75-1.1."  SECTION 3. G.S. 47H-2 reads as rewritten:  2. Minimum contents for contracts for deed; recordation.	void a relief to, and in this
(b)	Contents. – A contract for deed contract shall contain at least all of the following	ing:
	(14) A description of conditions of the property that includes wheth property, including any structures thereon, has water, sewer, septi electricity service, whether the property is in a floodplain, whether a else has a legal interest in the property, and whether restrictive covered prevent building or installing a dwelling. If restrictive covenants are in that affect the property, a copy of the restrictive covenants shall be available to the purchaser at or before the execution of the contract.	c, and anyone renants a place



**General Assembly Of North Carolina** A completed residential property disclosure statement that complies with 1 2 Chapter 47E of the General Statutes, provided that the seller does not choose the option of making "No Representation" as to any characteristic or 3 4 condition of the property. 5 6 (16)If the property being sold is encumbered by a deed of trust, mortgage, or 7 other encumbrance evidencing or securing a monetary obligation which 8 constitutes a lien on the property, and the seller is not a licensed general 9 contractor within the meaning of Chapter 87 of the General Statutes, or a licensed manufactured home dealer within the meaning of Article 9A of 10 11 Chapter 143 of the General Statutes, a statement of the amount of the lien, and the amount and due date, if any, of any periodic payments. 12 13 14 **SECTION 4.** G.S. 47H-8 reads as rewritten: 15 "§ 47H-8. Remedies. A violation of any provision of this Chapter constitutes an unfair trade practice under 16 17 G.S. 75-1.1. A purchaser may bring an action for the recovery of damages, to rescind a 18 transaction, as well as for declaratory or equitable relief, for a violation of this Chapter. The 19 rights and remedies provided herein are cumulative to, and not a limitation of, any other rights 20 and remedies provided by law or equity. Nothing in this Chapter shall be construed to subject 21 an individual homeowner selling his or her primary residence directly to a buyer to liability 22 under G.S. 75-1.1." 23 **SECTION 5.** G.S. 75-120 reads as rewritten: 24 **"§ 75-120. Definitions.** 25 The following definitions shall apply in this Article: Default. - Whenever a property owner is more than 60 days delinquent on 26 (1)27 any loan or debt that is secured by the property, including real estate taxes. 28 29 (3) Foreclosure rescue transaction. – A transfer of residential real property, 30 including a manufactured home that is permanently attached to the real 31 property, which includes all of the following features: 32 The real property is the principal residence of the transferor. a. 33 The transferor is in default or legal proceedings have been initiated to b. 34 foreclose on the transferor's property. 35 The transferee, an agent of the transferee, or others acting in concert c. 36 with the transferee make representations that the transfer of the 37 residential property will enable the transferor to prevent, postpone, or 38 reverse the effect of foreclosure and to remain in the residence.

**SECTION 6.** G.S. 75-121 reads as rewritten:

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## "§ 75-121. Foreclosure rescue transactions prohibited; exceptions; violation.

the property conveyed.property.

It is unlawful for a person or entity other than the transferor to engage in, promise to engage in, arrange, offer, promote, solicit, assist with, or carry out a foreclosure rescue transaction for financial gain or with the expectation of financial gain, unless prior to or at the time of transfer, the transferee pays the transferor at least fifty percent (50%) of the fair market value of the property as determined by a licensed certified appraiser. An appraisal to determine

The transferor retains an interest in the property conveyed, including

a tenancy interest, an interest under a lease purchase agreement,

anlease with option to purchase agreement, or an option to reacquire

the property, or any other legal, equitable, or possessory interest in

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the fair market value of the property must be performed no more than 90120 days prior to the transfer. The appraisal shall be delivered to the transferor no more than three days after the appraisal is performed and no less than seven days prior to the time the transferor becomes obligated to perform the agreement transfer of the property. This section does not apply to exempt transactions.

- (b) Every contract to effectuate a foreclosure rescue transaction in which the transferee pays at least 50% of the fair market value of the property, shall be in writing, shall be signed and acknowledged by all parties to it, and shall contain all the terms to which the parties have agreed. The contract shall contain at least all of the following:
  - (1) The names and addresses of all parties to the contract.
  - (2) The legal description of the property being transferred.
  - (3) Any financial obligation of the transferor that will be assumed by the transferee.
  - (4) The total amount to be paid by the transferee in connection with the transaction.
  - (5) The fair market value of the property as determined by a licensed certified appraiser.
  - (6) A description of the interest in the property retained by the transferor as provided in G.S. 75-120(3)d.
  - (7) The terms of the transferor's right to any future possessory or ownership interest in the property."

**SECTION 7.** This act becomes effective October 1, 2013, and applies to transactions entered into on or after that date.

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